

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 4, 2002

LB 876

the original version of LB 876, but it utilizes a hybrid methodology for changing to notice pleading by providing that the Nebraska Supreme Court has the authority to promulgate rules in furtherance of notice pleading. The amendment provides that the Supreme Court shall, by January 1 of 2004, develop rules of pleading in civil actions. Those rules shall not be in conflict with the statutes governing these matters. The amendment specifies that the reference to petition shall be replaced with a reference to complaint, and that various pleadings that are characteristic of a code pleading system, which we have now, such as a demur, are eliminated. The statutes that will be affected by the Supreme Court rules are amended. There are several reasons for providing the Supreme Court with the opportunity to develop changes to notice pleading by rule. First, uniformity in the civil process. The Legislature, in 1982, granted the Supreme Court the authority to develop rules of discovery in civil cases. The pleading process in civil litigation is integral to the discovery process, and therefore, we suggest, respectfully, that it make sense that the same entity that has oversight, with regard to the rules affecting the administration of civil litigation, have it also with regard to notice pleading. The Supreme Court can then harmonize the discovery rules with the rules of pleading in order to ensure consistency and efficiency in the judicial system. Secondly, we would urge that the Nebraska Supreme Court should have this authority in order to allow flexibility in developing the rules. Allowing the Supreme Court to develop notice ple...the notice pleading system will allow for more flexibility and ease in working out any difficulties that may arise, or issues that may arise, in the changeover from code pleading to notice pleading. If the Legislature writes the details of the civil procedure code into the statute as LB 876 originally proposes, a problem later presents itself, then the amendatory solution, the new legislation, will need to be introduced, given priority status and adopted by the body. To ensure that the process goes smoothly, and to ensure that the rules of pleading are integrated into our present rules of civil procedure, the committee felt it best to provide the Supreme Court with the authority to develop the pleading rules. The Supreme Court's committee on practice and procedure, which would take the lead in drafting new rules, is made up of judges, practitioners, and